

## 21 C.J.S. Courts § 155

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### Courts

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### IV. Terms and Sessions

#### D. Other Matters

## § 155. Designation or assignment of judges—Assignment of cases and jurisdiction of courts

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### West's Key Number Digest

West's Key Number Digest, [Courts](#) 70

**A specified judicial officer may have authority to assign cases to particular judges of the court, but defendants do not have the right to have their cases heard by a particular judge; district judges have the inherent power to transfer cases from one to another for the expeditious administration of justice.**

A specified judicial officer may have authority to assign cases to particular judges of the court<sup>1</sup> or to disqualify a judge from hearing or transferring cases.<sup>2</sup> However, a chief judge's broad authority to assign cases in a district does not authorize the judge to sit as a quasi-appellate court and review the decisions of other judges in the district by taking their cases through reassigning them because of a disagreement with the substance of their rulings.<sup>3</sup> The chief judge of a federal circuit is not required to poll all district and circuit judges before certifying the need for an out-of-circuit judge to preside over a criminal prosecution.<sup>4</sup> Cross assignments between court levels are to be used to aid and assist and are not to be used to redesignate the jurisdiction of the respective courts.<sup>5</sup> Each judge of a multidistrict court has the same power and authority as each other judge.<sup>6</sup>

Judicial economy is a factor in assigning a case to a particular judge<sup>7</sup> and is a proper purpose to justify rotating judicial assignments.<sup>8</sup> However, a defendant does not have the right to have the case heard by a particular judge<sup>9</sup> or the right to have any particular procedure used for selecting a hearing judge,<sup>10</sup> nor does the defendant enjoy the right to have a judge selected by a random draw.<sup>11</sup> Furthermore, a defendant has the right to an impartial judge but does not have the right to have the case heard before any particular judge.<sup>12</sup> A defendant's conviction under a state court judicial assignment system that effectively allows the prosecution to select the judge does not necessarily deprive the defendant of a neutral and impartial judge presiding

at trial<sup>13</sup> and does not contravene due process absent a showing of actual prejudice to the defendant.<sup>14</sup> However, a random or rotating assignment that is required for capital and other felony cases may violate due process.<sup>15</sup>

District judges have the inherent power to transfer cases from one to another for the expeditious administration of justice.<sup>16</sup> Permissible reasons to authorize a transfer from a district court judge who is initially assigned to a case are not limited to death, sickness, or other disability, as cited in a procedural rule<sup>17</sup> providing for a judge's replacement if the judge cannot continue the trial, inasmuch as courts have a broad statutory grant of power<sup>18</sup> to devise a system for dividing court business among the judges.<sup>19</sup>

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Footnotes

1 U.S.—[Cruz v. Abbate](#), 812 F.2d 571 (9th Cir. 1987).

Mo.—[Jones v. Chrysler Corp.](#), 731 S.W.2d 422 (Mo. Ct. App. S.D. 1987).

**Posttrial decision to reassign case**

U.S.—[U.S. v. Casas](#), 425 F.3d 23 (1st Cir. 2005).

2 Okla.—[Graham v. Cannon](#), 1978 OK 9, 574 P.2d 305 (Okla. 1978).

3 U.S.—[In re McBryde](#), 117 F.3d 208 (5th Cir. 1997).

4 U.S.—[U.S. v. Claiborne](#), 870 F.2d 1463 (9th Cir. 1989).

5 Fla.—[Crusoe v. Rowls](#), 472 So. 2d 1163 (Fla. 1985).

6 U.S.—[U.S. v. Diaz](#), 189 F.3d 1239 (10th Cir. 1999), as amended on denial of reh'g and reh'g en banc, (Oct. 15, 1999).

7 U.S.—[U.S. v. Todd](#), 245 F.3d 691 (8th Cir. 2001).

8 U.S.—[U.S. v. Diaz](#), 189 F.3d 1239 (10th Cir. 1999), as amended on denial of reh'g and reh'g en banc, (Oct. 15, 1999).

9 U.S.—[U.S. v. Colon-Munoz](#), 292 F.3d 18 (1st Cir. 2002).

10 U.S.—[U.S. v. Colon-Munoz](#), 292 F.3d 18 (1st Cir. 2002).

11 Tenn.—[State v. Thomas](#), 158 S.W.3d 361 (Tenn. 2005).

12 Neb.—[State v. Braesch](#), 292 Neb. 930, 874 N.W.2d 874 (2016).

13 U.S.—[Francolino v. Kuhlman](#), 365 F.3d 137 (2d Cir. 2004); [Tyson v. Trigg](#), 50 F.3d 436 (7th Cir. 1995).

14 U.S.—[Francolino v. Kuhlman](#), 365 F.3d 137 (2d Cir. 2004).

15 U.S.—[State v. Simpson](#), 551 So. 2d 1303 (La. 1989).

16 U.S.—[U.S. v. Diaz](#), 189 F.3d 1239 (10th Cir. 1999), as amended on denial of reh'g and reh'g en banc, (Oct. 15, 1999).

17 Fed. R. Crim. P. 25.

- 18                   28 U.S.C.A. § 137.
- 19                   U.S.—[U.S. v. Diaz](#), 189 F.3d 1239 (10th Cir. 1999), as amended on denial of reh'g and reh'g en banc, (Oct. 15, 1999).

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